UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1995/26
21 June 1995

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Subcommission on Prevention
of Discrimination and
Protection of Minorities
Forty-seventh session
Item 15 of the provisional agenda

DISCRIMINATION AGAINST INDIGENOUS PEOPLES

Protection of the heritage of indigenous people

Final report of the Special Rapporteur, Mrs. Erica-Irene Daes, in conformity with Subcommission resolution 1993/44 and decision 1994/105 of the Commission on Human Rights

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GE.95-12808 (E)

Introduction

1. By its resolution 1993/44 of 26 August 1993, the Subcommission on Prevention of Discrimination and Protection of Minorities endorsed the study of the protection of the cultural and intellectual property of indigenous peoples prepared by the Special Rapporteur Mrs. Erica-Irene Daes (E/CN.4/Sub.2/1993/28), and requested that she expand her study with a view to elaborating draft principles and guidelines for the protection of indigenous peoples' heritage. A preliminary report containing draft principles and guidelines was transmitted to the Subcommission at its forty-sixth session (E/CN.4/Sub.2/1994/31).

2. In accordance with the recommendation of the Subcommission contained in its resolution 1994/48, a note verbale was sent on 28 October 1994 to indigenous peoples' organizations, communities and nations, as well as to Governments, the specialized agencies and intergovernmental and non-governmental organizations, inviting them to submit comments on the draft principles and guidelines.

3. Replies have been received from the following: the Governments of Niger and Sweden; United Nations Centre for Human Settlements (Habitat); United Nations Environment Programme; Food and Agriculture Organization of the United Nations; International Labour Organization; World Intellectual Property Organization; American Indian Law Alliance; Black Hills Teton Sioux Nation; Indian Council of South America (CISA); Mapuche Nation (Consejo de Todas las Tierras); National Aboriginal and Islander Legal Services Secretariat. The Special Rapporteur wishes to express her gratitude to all those who have thus contributed to the completion of her study.

4. The Special Rapporteur was particularly fortunate to be able to participate in the Global Cultural Diversity Conference, organized by the Government of Australia as a part of Australia's observance of the fiftieth anniversary of the United Nations in April 1995. Also, she had the opportunity to exchange views with a number of indigenous people from different parts of the world community and in particular with the professors and experts of the Native Law Center, University of Saskatchewan. These discussions, among others, impressed upon the Special Rapporteur the high priority attached to this vitally important issue by indigenous peoples, and the breadth of support for urgent, prompt and effective action by the United Nations.

5. The present document reviews and responds to the comments which have been received by the above-mentioned Governments, specialized agencies and indigenous non-governmental organizations and presents a revised draft of the principles and guidelines for consideration and action by the Subcommission.

I. GENERAL COMMENTS

6. The Government of Niger observed that the absence of a definition of "indigenous people" invited subjective interpretations, which poses dangers for those emerging nations-States in Africa that face recurrent tribal

conflicts. Concern was also expressed about the proliferation of United Nations bodies and institutions, which may divert resources from existing activities.

7. The Government of Sweden explained that the Sameting, an elected governmental authority of Sami people established in 1992, decides how to allocate national funding for the promotion of Sami culture and the Sami language. Sami cultural heritage is included in the curricula of all Swedish schools, and Sami communities are free to establish their own schools. All abandoned sacred and ceremonial sites are protected by Swedish law; however, Swedish law does not distinguish between the intellectual property rights of Sami and other citizens. As a general matter, the Government of Sweden expressed concern that the guidelines not restrict freedom of speech or of the press, or freedom of academic inquiry.

8. The United Nations Centre for Human Settlements (Habitat), noting the attention already given by the Special Rapporteur to the spiritual and cultural attachment of indigenous people to their land, suggested that greater emphasis be placed on the need for legal recognition by Governments of traditional land tenure systems and land use practices, as this is a prerequisite for economic survival and the maintenance of the forms of social and cultural organization, norms, and practices of indigenous people.

9. The United Nations Environment Programme, noting its role as task manager for chapter 15 of Agenda 21, and its responsibilities for the implementation of the Convention on Biological Diversity, affirmed its commitment to continuing to facilitate and catalyze the cooperation of States in recognizing the unique contributions of indigenous peoples to conservation and sustainable development, as well as their right to be compensated for their contributions to society. Chapter 15 directs Governments to recognize and foster the traditional conservation methods and knowledge of indigenous people, and ensure the opportunity of indigenous people to participate in the benefits derived from such knowledge. Similarly, the Convention on Biological Diversity requests each Contracting Party, as far as possible and as appropriate, subject to its national legislation, to respect, preserve and maintain such traditional knowledge, and promote its wider application with the approval and involvement of indigenous people, and the equitable sharing of the benefits with the people concerned.

10. The Food and Agriculture Organization of the United Nations also noted that the question of indigenous peoples' heritage rests outside the ambit of its activities.

11. The International Labour Organization expressed the view that the draft principles and guidelines are a very positive development, which is moreover consistent with several provisions of the ILO's Indigenous and Tribal Peoples Convention, 1989 (No. 169). There are considerable similarities between paragraph 16 of the draft guidelines and article 27 of the Convention; paragraph 18 of the draft guidelines and article 28 of the Convention; and between paragraph 49 of the draft guidelines and article 27 of the Convention. It was noted that in some respects, the terms of the Convention are somewhat broader in scope.

12. The World Intellectual Property Organization maintained that its activities do not include the protection of the heritage of indigenous peoples, and therefore it would appreciate that all references to WIPO in the draft guidelines be deleted.

13. The American Indian Law Alliance reiterated its concern over the Human Genome Diversity Project, stressed the central importance of the international protection of indigenous peoples' lands, and noted that the present guidelines, if eventually adopted by the General Assembly, could provide a basis for requests by United Nations treaty bodies for information from State parties to existing human rights conventions.

14. The Black Hills Teton Sioux Nation also emphasized the importance of the protection of the lands of indigenous peoples, referring to its own situation in the United States, and in this context appealed for a greater respect for treaties made with indigenous peoples.

15. The Indian Council of South America (CISA) provided the Special Rapporteur with extensive suggestions for improving the wording of the principles and guidelines, by way of clarification. Several of these suggestions have been incorporated into the revised text.

16. The Mapuche Nations organization Aukin Wallmapu Ngulam (Consejo de Todas las Tierras) convened a conference in November-December 1994, at Temuco, Chile, to evaluate the consequences of the North American Free Trade Agreement for indigenous peoples in the Americas. Participants came from Chile, Argentina, Peru and Mexico, and adopted a declaration which, inter alia, condemned the accelerated usurpation and patenting of indigenous peoples' knowledge by transnational corporations.

17. The National Aboriginal and Islander Legal Services Secretariat provided the Special Rapporteur with the text of a proposed convention to establish international jurisdiction for the restitution of objects constituting a part of the heritage of indigenous peoples. While this proposal extends beyond the current mandate of the Special Rapporteur, it would be an appropriate task to consider undertaking as a follow-up to the adoption of the present guidelines and a recommendation to this effect has been added, as paragraph 60.

II. COMMENTS ON SPECIFIC RECOMMENDATIONS

18. Concerning the question of definition, the Special Rapporteur is in complete sympathy with the concerns expressed by the Government of Niger. She wishes to point out, however, that the United Nations has never found it appropriate or necessary to attempt a definition of the term "peoples", which appears in the Charter of the United Nations and in the International Covenants on Human Rights, or the term "minorities", which appears in the recently adopted Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. The Working Group on Indigenous Populations considered a working definition of the term "indigenous" at its second session (E/CN.4/Sub.2/AC.4/1983/CRP.2; E/CN.4/Sub.2/1983/22, paras. 109-119), but subsequently concluded that justice would best be served by allowing the scope of this concept to evolve

flexibly over time, through practice. Also, the Special Rapporteur of the Subcommission, José R. Martínez Cobo, in his Study of the Problem of Discrimination Against Indigenous Populations, has proposed a working definition, which in certain cases was unofficially used (E/CN.4/Sub.2/1986/7/Add.4, p. 29, para. 379, subsequently published as a United Nations publication, Sales No. E.86.XIV.3).

19. In connection with the recovery and restitution of heritage, the Government of Sweden observed that its current treaty obligations and national laws pertain only to the return of moveable cultural property between certain European Governments. The Special Rapporteur is aware of the limitations of existing bilateral and multilateral treaties for the return of moveable cultural property, having identified this as an important obstacle to the effective protection of indigenous peoples' heritage in her study. She also observes that the instrument she has drafted for consideration by the Subcommission is in the nature of a declaration, rather than a binding convention; that a declaration, in United Nations practice, is aspirational, and ordinarily goes further than the existing practices of States, with the aim of encouraging all States to adopt more effective legislation; and that this declaration of principles and guidelines, should it eventually be approved by the General Assembly, would constitute an invitation to States to consider taking additional steps to secure the purposes to which their existing cultural and educational legislation is already addressed.

20. With regard to strengthening national programmes and legislation, the Government of Sweden explained that Swedish law permits a person to retain items of moveable cultural property which were acquired in good faith. It is one of the principal aims of the measures proposed by the Special Rapporteur to heighten worldwide public understanding of the nature and importance of the heritage of indigenous peoples, so that public and private purchasers of objects with indigenous origins will be more cautious in the future, and demand adequate documentation of the licit acquisition of such objects. This is in the interest of legitimate collectors and scholars, as well as indigenous peoples. As for those objects which were removed from indigenous communities in the past, draft paragraph 22 does not require that they be returned in every case, but according to their cultural, religious, and historical significance. Paragraph 22 also contemplates the retention of objects in private as well as public collections, under agreements for custody made with the traditional owners. This strikes a balance between the interests of indigenous peoples in retaining particularly significant elements of their heritage, and the interests of good-faith purchasers in what they believe they have lawfully acquired.

21. The Government of Sweden also observed that Swedish law protects the creative freedom of artists, writers, and performers. This would not prevent artists from freely lending their support to strengthening public understanding of and respect for indigenous peoples' heritage, as contemplated by paragraphs 47 and 48 of the guidelines. Nor would the freedom of artistic expression be unduly curtailed by encouraging artists to seek the consent of indigenous peoples before incorporating elements of indigenous peoples' heritage into new creative works. The protection of artistic freedom is ancillary to the right of freedom of speech, which itself is never absolute, but subject to legitimate limitations in favour of the privacy, security,

rights and reputations of others. In the UNESCO Declaration of the Principles of International Cultural Cooperation (1966), moreover, the free exchange of cultural knowledge is expressly linked with "respect" and "reciprocity" among cultures. The study prepared by the Special Rapporteur documents the extent to which respect and reciprocity have been lacking in the case of appropriation of indigenous peoples' heritage by other societies. Paragraph 46 does not forbid the incorporation of indigenous peoples' heritage in works of art, but urges artists to consult with the peoples concerned and to seek their consent, which in turn will promote the growth of dialogue, understanding, respect and reciprocity, and indeed increase the extent to which artists appreciate the true meaning and full richness of the indigenous motifs and themes they have so long admired and copied.

22. Similarly, in the field of public information and education, the Government of Sweden expressed concern that journalists remain free to conduct critical investigations of all social issues, including those involving indigenous peoples. Specific provisions for the privacy of indigenous peoples are unnecessary, as the right to privacy is already secured to all citizens by Swedish law. The Special Rapporteur agrees wholeheartedly with the importance of protecting freedom of the press, and does not perceive how this freedom is jeopardized by paragraphs 50 and 51 of the draft guidelines. Respect for privacy and accuracy are well-established canons of international professional journalism, and expressing the importance of applying these canons scrupulously in the case of indigenous peoples does not create new restrictions. Indeed, paragraph 51 encourages the international mass media to increase their scrutiny of events involving the heritage of indigenous peoples.

III. ANALYSIS AND REVISIONS

23. The Temuco-Wallmapuche Declaration of 2 December 1994 underscores the urgency of taking international action to protect the heritage of indigenous peoples from further erosion by commercial interests. The rapid expansion of regional trading blocs in the Americas and South-East Asia and the intellectual property provisions of the Uruguay Round of GATT will facilitate and accelerate the acquisition of patents to indigenous peoples' knowledge by biotechnology firms in the North.

24. With respect to freedom of speech, freedom of the press, freedom of academic inquiry and artistic freedom, it should be emphasized that the right to privacy is guaranteed by article 17 of the International Covenant on Civil and Political Rights and that, pursuant to article 19 of the Covenant, there is no right to exercise the right of freedom of expression in ways that are injurious to the "rights or reputations of others". These principles imply, inter alia, a duty to maintain accuracy and transparency in the fields of information, communications and education, as the General Assembly recognized when it adopted the Guidelines for the regulation of computerized personal data files by resolution 45/95 of 14 December 1990. Accuracy with respect to information about indigenous peoples cannot be achieved without the participation of the peoples concerned.

25. The Special Rapporteur also fails to understand how the right to freedom of expression includes the right to obtain commercial or other benefits from the repetition of the ideas or creative works of others. The measures she has recommended pose no more of a conflict with free expression than patent and copyright legislation, which secure to the creators of useful knowledge and artistic works the right to control, and to benefit from, what they have created. A balance must always be struck between privacy, property rights, and the free flow of cultural and scientific knowledge, and the Special Rapporteur believes that the guidelines she has prepared strike this balance in a constructive, reasonable, fair and appropriate manner in the case of indigenous peoples, in the light of the intrinsically collective nature of these peoples.

26. With due respect for the concerns expressed by the Government of Sweden, furthermore, paragraph 49 of the guidelines does not require that journalists collaborate with indigenous peoples, or obtain their consent, whenever writing about them. Rather, it calls upon organs of the mass media to collaborate with indigenous peoples in preparing "special broadcasts and public service programmes", to promote a wider public understanding of these peoples and their heritage. The Special Rapporteur believes that this is consistent with, inter alia, article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination; articles 17 and 28 of the Convention on the Rights of the Child; article 5 of the Convention against Discrimination in Education; and article 31 of the Indigenous and Tribal Peoples Convention, 1989 (No. 169).

27. With respect to the recommendation by Habitat that the guidelines broadly affirm the responsibility of Governments to recognize the land tenure systems of indigenous peoples, the Special Rapporteur believes that it is more appropriate to develop such a principle in the context of the draft declaration on the rights of indigenous peoples, which is currently before the Commission on Human Rights for its consideration, and possible revision. Furthermore, this issue has been addressed in comprehensive terms by article 17.1 of ILO Convention No. 169 and by paragraph 6.27 of the Programme of Action of the International Conference on Population and Development (see A/CONF.171/13). The Special Rapporteur agrees, however, that paragraph 31 of the present draft guidelines should be given as broad an application as may be consistent with the concept of "heritage" in her mandate, viz. Subcommission resolution 1993/44.

28. The Special Rapporteur also believed it appropriate to harmonize the terms of paragraph 18 with the parallel provision contained in ILO Convention No. 169.

29. Concerning the proposed role of the World Intellectual Property Organization in the implementation of the guidelines (paras. 53, 55 and 56), that agency has expressed its unwillingness to assume the additional responsibilities. It is far from the wishes of the Special Rapporteur to impose upon any part of the United Nations system tasks which it considers inappropriate or burdensome, although it would seem to be squarely within

the agency's existing mandate. In any event, it is clear that other United Nations bodies and specialized agencies are already committed to the protection and development of the rights and heritage of indigenous peoples, and it is to them that the final draft of the guidelines is now addressed.

30. The reader will observe that paragraphs 52 to 59, concerning the role of international organizations, have been re-ordered and revised, mainly to clarify the role of the Secretary-General in determining the proper assignment of implementation tasks among organs and agencies of the United Nations system.

IV. RECOMMENDATIONS

31. The Special Rapporteur respectfully recommends that the attached, revised Principles and Guidelines be considered by the Subcommission as a matter of the highest priority, with the aim of transmitting them to the Commission on Human Rights at its fifty-second session.

32. The Special Rapporteur expresses her sincere wish that it will be possible for the General Assembly to adopt a declaration of principles and guidelines on the heritage of indigenous peoples in 1996, which is the second year of the International Decade of the World's Indigenous People. The adoption of such an instrument would constitute a strong message of the commitment of the United Nations to the goals and objectives of the Decade, even while the Commission on Human Rights continues its review of the draft declaration on the rights of indigenous peoples, a far more comprehensive and far-reaching project.

33. In this connection, the Special Rapporteur further recommends the convening of a United Nations technical meeting, as early as possible in the Decade, to propose mainly practical modalities for the cooperation of relevant United Nations bodies and specialized agencies in protecting the heritage of indigenous peoples. The participants should include representatives of Governments, relevant United Nations bodies such as UNEP, the specialized agencies, in particular ILO and UNESCO, as well as the largest feasible number of representative organizations of indigenous peoples actively involved in the protection of heritage.

34. The Special Rapporteur notes that mandates already exist for the establishment of interregional technical exchanges and communications networks among indigenous peoples, for example in chapter 26 of Agenda 21, as well as General Assembly resolution 49/214 of 23 December 1994. Initiatives of this kind by appropriate United Nations bodies and specialized agencies in the field of heritage need not await the adoption of the Principles and Guidelines proposed here. On the contrary, such initiatives are urgently required to further the global recognition of "the value and diversity of the cultures and the forms of social organization of the world's indigenous people", in the terms employed by the General Assembly in its resolution 49/214, and to bring the erosion of these irreplaceable cultures to a speedy end.

Annex

PRINCIPLES AND GUIDELINES FOR THE PROTECTION OF THE HERITAGE OF INDIGENOUS PEOPLE

Elaborated by the Special Rapporteur of the Subcommission
Mrs. Erica-Irene Daes

PRINCIPLES

1. The effective protection of the heritage of the indigenous peoples of the world benefits all humanity. Cultural diversity is essential to the adaptability and creativity of the human species as a whole.

2. To be effective, the protection of indigenous peoples' heritage should be based broadly on the principle of self-determination, which includes the right and the duty of indigenous peoples to develop their own cultures and knowledge systems, and forms of social organization.

3. Indigenous peoples should be recognized as the primary guardians and interpreters of their cultures, arts and sciences, whether created in the past, or developed by them in the future.

4. International recognition and respect for indigenous peoples' own customs, rules and practices for the transmission of their heritage to future generations is essential to these peoples' enjoyment of human rights and human dignity.

5. Indigenous peoples' ownership and custody of their heritage must continue to be collective, permanent and inalienable, as prescribed by the customs, rules and practices of each people.

6. The discovery, use and teaching of indigenous peoples' knowledge, arts and cultures is inextricably connected with the traditional lands and territories of each people. Control over traditional territories and resources is essential to the continued transmission of indigenous peoples' heritage to future generations, and its full protection.

7. To protect their heritage, indigenous peoples must control their own means of cultural transmission and education. This includes their right to the continued use and, wherever necessary, the restoration of their own languages and orthographies.

8. To protect their heritage, indigenous peoples must also exercise control over all research conducted within their territories, or which uses their people as subjects of study.

9. The free and informed consent of the traditional owners should be an essential precondition of any agreements which may be made for the recording, study, use or display of indigenous peoples' heritage.

10. Any agreements which may be made for the recording, study, use or display of indigenous peoples' heritage must be revocable, and ensure that the peoples concerned continue to be the primary beneficiaries of commercial application.

GUIDELINES

Definitions

11. The heritage of indigenous peoples is comprised of all objects, sites and knowledge the nature or use of which has been transmitted from generation to generation, and which is regarded as pertaining to a particular people or its territory. The heritage of an indigenous people also includes objects, knowledge and literary or artistic works which may be created in the future based upon its heritage.

12. The heritage of indigenous peoples includes all moveable cultural property as defined by the relevant conventions of UNESCO; all kinds of literary and artistic works such as music, dance, song, ceremonies, symbols and designs, narratives and poetry; all kinds of scientific, agricultural, technical and ecological knowledge, including cultigens, medicines and the rational use of flora and fauna; human remains; immoveable cultural property such as sacred sites, sites of historical significance, and burials; and documentation of indigenous peoples' heritage on film, photographs, videotape, or audiotape.

13. Every element of an indigenous peoples' heritage has traditional owners, which may be the whole people, a particular family or clan, an association or society, or individuals who have been specially taught or initiated to be its custodians. The traditional owners of heritage must be determined in accordance with indigenous peoples' own customs, laws and practices.

Transmission of heritage

14. Indigenous peoples' heritage should continue to be learned by the means customarily employed by its traditional owners for teaching, and each indigenous peoples' rules and practices for the transmission of heritage and sharing of its use should be incorporated in the national legal system.

15. In the event of a dispute over the custody or use of any element of an indigenous peoples' heritage, judicial and administrative bodies should be guided by the advice of indigenous elders who are recognized by the indigenous communities or peoples concerned as having specific knowledge of traditional laws.

16. Governments, international organizations and private institutions should support the development of educational, research, and training centres which are controlled by indigenous communities, and strengthen these communities' capacity to document, protect, teach, and apply all aspects of their heritage.

17. Governments, international organizations and private institutions should support the development of regional and global networks for the exchange of information and experience among indigenous peoples in the fields of science, culture, education and the arts, including support for systems of electronic information and mass communication.

18. Governments, with international cooperation, should provide the necessary financial resources and institutional support to ensure that every indigenous child has the opportunity to achieve full fluency and literacy in his/her own language, as well as an official language.

Recovery and restitution of heritage

19. Governments, with the assistance of competent international organizations, should assist indigenous peoples and communities in recovering control and possession of their moveable cultural property and other heritage.

20. In cooperation with indigenous peoples, UNESCO should establish a programme to mediate the recovery of moveable cultural property from across international borders, at the request of the traditional owners of the property concerned.

21. Human remains and associated funeral objects must be returned to their descendants and territories in a culturally appropriate manner, as determined by the indigenous peoples concerned. Documentation may be retained, displayed or otherwise used only in such form and manner as may be agreed upon with the peoples concerned.

22. Moveable cultural property should be returned wherever possible to its traditional owners, particularly if shown to be of significant cultural, religious or historical value to them. Moveable cultural property should only be retained by universities, museums, private institutions or individuals in accordance with the terms of a recorded agreement with the traditional owners for the sharing of the custody and interpretation of the property.

23. Under no circumstances should objects or any other elements of an indigenous peoples' heritage be publicly displayed, except in a manner deemed appropriate by the peoples concerned.

24. In the case of objects or other elements of heritage which were removed or recorded in the past, the traditional owners of which can no longer be identified precisely, the traditional owners are presumed to be the entire people associated with the territory from which these objects were removed or recordings were made.

National programmes and legislation

25. National laws should guarantee that indigenous peoples can obtain prompt, effective and affordable judicial or administrative action in their own languages to prevent, punish and obtain full restitution and just compensation for the acquisition, documentation or use of their heritage without proper authorization of the traditional owners.

26. National laws should deny to any person or corporation the right to obtain patent, copyright or other legal protection for any element of indigenous peoples' heritage without adequate documentation of the free and informed consent of the traditional owners to an arrangement for the sharing of ownership, control, use and benefits.

27. National laws should ensure the labelling and correct attribution of indigenous peoples' artistic, literary and cultural works whenever they are offered for public display or sale. Attribution should be in the form of a trademark or an appellation of origin, authorized by the peoples or communities concerned.

28. National laws for the protection of indigenous peoples' heritage should be adopted following consultations with the peoples concerned, in particular the traditional owners and teachers of religious, sacred and spiritual knowledge, and, wherever possible, should have the informed consent of the peoples concerned.

29. National laws should ensure that the use of traditional languages in education, arts and the mass media is respected and, to the extent possible, promoted and strengthened.

30. Governments should provide indigenous communities with financial and institutional support for the control of local education, through community-managed programmes, and with use of traditional pedagogy and languages.

31. Governments should take immediate steps, in cooperation with the indigenous peoples concerned, to identify sacred and ceremonial sites, including burials, healing places, and traditional places of teaching, and to protect them from unauthorized entry or use.

Researchers and scholarly institutions

32. All researchers and scholarly institutions should take immediate steps to provide indigenous peoples and communities with comprehensive inventories of the cultural property, and documentation of indigenous peoples' heritage, which they may have in their custody.

33. Researchers and scholarly institutions should return all elements of indigenous peoples' heritage to the traditional owners upon demand, or obtain formal agreements with the traditional owners for the shared custody, use and interpretation of their heritage.

34. Researchers and scholarly institutions should decline any offers for the donation or sale of elements of indigenous peoples' heritage, without first contacting the peoples or communities directly concerned and ascertaining the wishes of the traditional owners.

35. Researchers and scholarly institutions must refrain from engaging in any study of previously undescribed species or cultivated varieties of plants, animals or microbes, or naturally occurring pharmaceuticals, without first obtaining satisfactory documentation that the specimens were acquired with the consent of the traditional owners.

36. Researchers must not publish information obtained from indigenous peoples or the results of research conducted on flora, fauna, microbes or materials discovered through the assistance of indigenous peoples, without identifying the traditional owners and obtaining their consent to publication.

37. Researchers should agree to an immediate moratorium on the Human Genome Diversity Project. Further research on the specific genotypes of indigenous peoples should be suspended unless and until broadly and publicly supported by indigenous peoples to the satisfaction of United Nations human rights bodies.

38. Researchers and scholarly institutions should make every possible effort to increase indigenous peoples' access to all forms of medial, scientific and technical education, and participation in all research activities which may affect them or be of benefit to them.

39. Professional associations of scientists, engineers and scholars, in collaboration with indigenous peoples, should sponsor seminars and disseminate publications to promote ethical conduct in conformity with these guidelines and discipline members who act in contravention.

Business and industry

40. In dealings with indigenous peoples, business and industry should respect the same guidelines as researchers and scholarly institutions.

41. Business and industry should agree to an immediate moratorium on making contracts with indigenous peoples for the rights to discover, record and use previously undescribed species or cultivated varieties plants, animals or microbes, or naturally occurring pharmaceuticals. No further contracts should be negotiated until indigenous peoples and communities themselves are capable of supervising and collaborating in the research process.

42. Business and industry should refrain from offering incentives to any individuals to claim traditional rights of ownership or leadership within an indigenous community, in violation of their trust within the community and the laws of the indigenous peoples concerned.

43. Business and industry should refrain from employing scientists or scholars to acquire and record traditional knowledge or other heritage of indigenous peoples in violation of these guidelines.

44. Business and industry should contribute financially and otherwise to the development of educational and research institutions controlled by indigenous peoples and communities.

45. All forms of tourism based on indigenous peoples' heritage must be restricted to activities which have the approval of the peoples and communities concerned, and which are conducted under their supervision and control.

Artists, writers and performers

46. Artists, writers and performers should refrain from incorporating elements derived from indigenous heritage into their works without the informed consent of the traditional owners.

47. Artists, writers and performers should support the full artistic and cultural development of indigenous peoples, and encourage public support for the development and greater recognition of indigenous artists, writers and performers.

48. Artists, writers and performers should contribute, through their individual works and professional organizations, to the greater public understanding and respect for the indigenous heritage associated with the country in which they live.

Public information and education

49. The mass media in all countries should take effective measures to promote understanding of and respect for indigenous peoples' heritage, in particular through special broadcasts and public-service programmes prepared in collaboration with indigenous peoples.

50. Journalists should respect the privacy of indigenous peoples, in particular concerning traditional religious, cultural and ceremonial activities, and refrain from exploiting or sensationalizing indigenous peoples' heritage.

51. Journalists should actively assist indigenous peoples in exposing any activities, public or private, which destroy or degrade indigenous peoples' heritage.

52. Educators should ensure that school curricula and textbooks teach understanding and respect for indigenous peoples' heritage and history and recognize the contribution of indigenous peoples to creativity and cultural diversity.

International organizations

53. The Secretary-General should ensure that the task of coordinating international cooperation in this field is entrusted to appropriate organs and specialized agencies of the United Nations, with adequate means of implementation.

54. In cooperation with indigenous peoples, the United Nations should bring these principles and guidelines to the attention of all Member States through, inter alia, international, regional and national seminars and publications, with a view to promoting the strengthening of national legislation and international conventions in this field.

55. The United Nations should publish a comprehensive annual report, based upon information from all available sources, including indigenous peoples themselves, on the problems experienced and solutions adopted in the protection of indigenous peoples' heritage in all countries.

56. Indigenous peoples and their representative organizations should enjoy direct access to all intergovernmental negotiations in the field of intellectual property rights, to share their views on the measures needed to protect their heritage through international law.

57. In collaboration with indigenous peoples and Governments concerned, the United Nations should develop a confidential list of sacred and ceremonial sites that require special measures for their protection and conservation, and provide financial and technical assistance to indigenous peoples for these purposes.

58. In collaboration with indigenous peoples and Governments concerned, the United Nations should establish a trust fund with a mandate to act as a global agent for the recovery of compensation for the unconsented or inappropriate use of indigenous peoples' heritage, and to assist indigenous peoples in developing the institutional capacity to defend their own heritage.

59. United Nations operational agencies, as well as the international financial institutions and regional and bilateral development assistance programmes, should give priority to providing financial and technical support to indigenous communities for capacity-building and exchanges of experience focused on local control of research and education.

60. The United Nations should consider the possibility of drafting a convention to establish international jurisdiction for the recovery of indigenous peoples' heritage across national frontiers, before the end of the International Decade of the World's Indigenous People.